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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,043	08/09/2001	John Franklin Ebersole	16805-00035	4734

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Mirick O'Connell
DeMallie & Lougee, LLP
Suite 1700
100 Front Street
Worcester, MA 01608-1477

EXAMINER

MENGISTU, AMARE

ART UNIT PAPER NUMBER

2673

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,043

Applicant(s)

EBERSOLE ET AL.

Examiner

Amare Mengistu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10, 13, 14, 17, 19-25 and 30 is/are rejected.
- 7) ☒ Claim(s) 11, 12, 15, 16, 18 and 26-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5,7,8,17,19-25,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Zhang (6,476,391)** in view of **Sauer et al (2002/0075201)**.

As to claims 5,7,17,19-25,30 **Zhang** teaches an augmented reality display device comprising: a self contained breathing mask (fig.2)); a head mounted display (fig.1) and a head mounted camera (fig.1 (20), fig.2 (2a)) placed proximate the user's eye to minimized the distance between the user's eye, and placed on the optical axis of the user's eyes; the a see through head mounted display (col.2, lines 12-13,); a mirror to see the camera view point (fig.1 (32)) which is mounted on a mounting plate (fig.2 (32a)); a headphone (fig.1 (46)).

Zhang did not explicitly disclose having a motion tracker coupled to the mask, computer graphics rendered by a computer to be shown to the user, and displaying a computer graphics with the user's view of the real world on the HMD.

Sauer et al. is cited to teaches that it is well known for a head up display (HUD) (fig.2a (201)) a motion tracker coupled to HUD/ camera to track the user field of view (figs. 2a, 2b HUD (201); tracker (206); cameras (202), (203); pages 2-3, [0035]), a

computer graphics rendered by computer to be shown to the user, the computer graphics corresponding to the user's field of view as tracked by the motion tracker, so that the graphics appear to be anchored in 3-D space (fig.1 (112,114,120,122); also see, page 1 [0006]; page 2, [0020]; pages 2-3 [0035]), a see through head mounted display (HMD) mounted in front of the user's eyes on which the computer graphics are displayed, to combine the computer graphics with the user's view of real world captured by a camera (Abstract; fig.1 (110), (114) ,(122), (124); page 2 [0020], page 4 [0051]);

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to have been motivated to incorporate the method of combining the computer graphics the user's field of view as taught by **Sauer et al** into the device of Zhang, because this will allow the user to see the combination of a real image with computer generated graphics through a display. The system can be used to provide guidance to a user, for example, providing information during a surgical procedure.

In regard to claim 8, **Zhang** teaches a headphone (fig.1 (40)), but did not specifically states that a shaft to connect to the headphone to the SCBA and use epoxy or other means to strengthen the shaft. It would have been obvious to one skill in the art to recognize that head phone of **Zhang** could be connected to the SCBA in order to make the headphone stable to the ear. However, this is an alternative to **Zhang's** headphone position. Further more, it would have been also obvious to one skill in the art to make the shafts of the headphones stronger in order to protect from braking.

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3. Claims 6, 9,10, 13, 14 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over **Zhang** in view of **Sauer et al** further in view of **Arai et al (6,018,630)**.

As to claims 6,10, 13,14 and 17 **Zhang** as modified by **Sauer et al** teaches a head mounted display having a second camera to generate a stereoscopic view (col.3, lines 45-51, col.8, lines 55- col.9, lines 16). **Zhang** has failed to teach a mirror to set the camera viewpoint to more closely concede with the wearer's eye position. **Arai et al** is cited to teach that it is conventional for a camera to have a mirror to set the viewpoint closely to the user's eye (see, Abstract; col.2, lines 26-34,49-63).

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to have incorporated the use of mirror in camera as taught by **Arai et al** into the system of **Zhang**, since this will provide to position an image to near the observer's eye for a closely look of the image.

It is also well known to use some kind of protection around the mirror to prevent from damage.

Allowable Subject Matter

4. Claims 11,12,15,16,18,26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed July 22, 2004 have been fully considered but they are not persuasive.

Applicant argues that **Zhang** does not disclose the followings:

(1) Displaying computer graphic generated objects that correspond to real word or of any sort.

(2) Does not need a motion tracker to maintain the proper camera field of view.

The Examiner strongly disagrees with applicant's assertion.

As to (1) **Zhang** does not teach displaying a computer graphic generated objects that corresponds to real word or of any sort. **Sauer et al** is the one, which cited to teach displaying a computer graphic generated objects that corresponds to real word and not **Zhang** (see the new rejection above).

In regard to (2) **Zhang** does not need a motion tracker to maintain the proper camera field of view. The Examiner does not understand this statement by applicant. Here again **Zhang is not the one, which cited to teach the motion tracker. Sauer et al** is the one who teaches the motion tracker (see, the rejection above).

Applicants cannot show non-obviousness by attacking references individually where as here the rejections are based on combination of references.

In re Keller, 208 USPQ 871 (CCPA 1981).

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Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amare Mengistu whose telephone number is (703) 305-4880. The examiner can normally be reached on M-F, T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703) 305-4938. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read "Amare Mengistu".

Amare Mengistu
Primary Examiner
Art Unit 2673

A.M
November 30, 2004